

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TONI DOLLIE GARCIA,

Plaintiff,

vs.

MARYANN RYAN, et al.

Defendants.

3:06-CV-0091-ECR (VPC)

**REPORT AND RECOMMENDATION
OF U.S. MAGISTRATE JUDGE**

This Report and Recommendation is made to the Honorable Edward C. Reed, Jr., United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR IB 1-4. Before the Court is plaintiff's failure to serve the defendants in this matter. For the reasons set forth below, it is recommended that this case be dismissed without prejudice.

I. Background

On August 10, 2006, this court entered an order granting plaintiff's application to proceed *in forma pauperis* (#2). The court permitted plaintiff to file her complaint; however, the complaint was screened pursuant to 28 U.S.C. § 1915(e)(2), and the court found the complaint to be comprised of unintelligible random statements (#2). Therefore, plaintiff's complaint was dismissed without prejudice and plaintiff was granted thirty days within which to file an amended complaint which stated a claim upon which relief could be granted. *Id.*

1 The order was mailed to plaintiff (#4) at the only address provided to the court which was:
2 "Prisoners of Smelly Road, Las Vegas, NV" (#1). The U.S. Postal Service marked the envelope
3 "undeliverable" and returned the mail to the Clerk of the Court on August 15, 2006 (#4).

4 To date, plaintiff has failed to file an amended complaint which states a claim upon which
5 relief can be granted. Plaintiff has not requested additional time from the court to file an amended
6 complaint, nor has plaintiff provided the court with her proper address. Therefore, the undersigned
7 magistrate judge court recommends that the District Court enter an order dismissing this case without
8 prejudice.

9 The parties are advised:

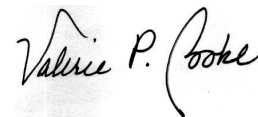
10 1. That they may file, pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule IB 3-2 of the Local
11 Rules of Practice, specific written objections to this Report and Recommendation within ten (10) days
12 of receipt. These objections should be titled "Objections to Magistrate Judge's Report and
13 Recommendation" and should be accompanied by points and authorities for consideration by the
14 District Court.

15 2. That this Report and Recommendation is not an appealable order and that any notice
16 of appeal pursuant to Fed.R.Civ.P. 4(a)(1) should not be filed until entry of the District Court's
17 judgment.

18 **II. Recommendation**

19 **IT IS THEREFORE RECOMMENDED** that the District Court enter an order
20 **DISMISSING** this case **WITHOUT PREJUDICE**.

21 DATED: February 12, 2007.



22 _____
23 UNITED STATES MAGISTRATE JUDGE
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